

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4904 of 2024

Manoranjan Prasad Samdarshi son of Raghuvansh Prasad Resident of Village-
Bataspur Post- Bakraur Thana Bodhgaya District- Gaya, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar Through Zila Padadhikari, Gaya.
2. Aayukt, Rajya Nirwachan Aayog, Bihar, Patna.
3. Zila Panchayati Raj Padadhikari, Gaya.
4. Prakhand Vikas Padadhikari Bodhgaya.
5. Sachiv Gram Panchayat Baladhi, District- Gaya.
6. Ishwar Manjhi , Mukhiya Gram Panchayat Basadhi. Sabhi Gram panchayat Basadhi Prakhand and Thana Bodh Gaya, Zila - Gaya.
7. Sawana Khatoon, Ward Sadasya, Ward Number- 5, Gram Narkatiya. Sabhi Gram panchayat Basadhi Prakhand and Thana Bodh Gaya, Zila - Gaya.
8. Dilip Manjhi Ward Sadasya, Ward No.-7 Gram Basadhi. Sabhi Gram panchayat Basadhi Prakhand and Thana Bodh Gaya, Zila - Gaya.
9. Amroj Kumar Ward Sadasya, Ward No. 8, Basadhi. Sabhi Gram panchayat Basadhi Prakhand and Thana Bodh Gaya, Zila - Gaya.
10. Sushil Paswan Ward Sadasya, Ward No.- 13, Gram Sewawigha. Sabhi Gram panchayat Basadhi Prakhand and Thana Bodh Gaya, Zila - Gaya.
11. Yugal Kishor Tiwari Ward Sadasya Ward No.-18, Gram Ghato(Ghogriya). Sabhi Gram panchayat Basadhi Prakhand and Thana Bodh Gaya, Zila - Gaya.
12. Kabutri Devi Ward Sadasyaa, Ward No. 16 Gram Bataspur. Sabhi Gram panchayat Basadhi Prakhand and Thana Bodh Gaya, Zila - Gaya.
13. Nagina Devi Ward Sadasya, Ward No.-9 Gram Gaurwigha. Sabhi Gram panchayat Basadhi Prakhand and Thana Bodh Gaya, Zila - Gaya.
14. Seema Devi Ward Sadasya, Ward no.- 12, Gram Gothu. Sabhi Gram panchayat Basadhi Prakhand and Thana Bodh Gaya, Zila - Gaya.
15. UP Kumari Ward Sadasya ward No.-17, Gram Ghoghariya. Sabhi Gram panchayat Basadhi Prakhand and Thana Bodh Gaya, Zila - Gaya.
16. Ranjeet Kumar Gupta Ward Sadasya Ward No.-6, Gram Basadhi. Sabhi Gram panchayat Basadhi Prakhand and Thana Bodh Gaya, Zila - Gaya.
17. Rinki Devi Ward Sadasya Ward No.-14 Gram Bataspur. Sabhi Gram panchayat Basadhi Prakhand and Thana Bodh Gaya, Zila - Gaya.
18. Nasima Khatoon Ward Sadasya ward no-4 ward Narkatiya. Sabhi Gram panchayat Basadhi Prakhand and Thana Bodh Gaya, Zila - Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Indradeo Prasad, Advocate
For the Resp. Nos. 7, 8, 12 to 18	:	Mr. Shailesh Kumar, Advocate
For the State	:	Mr. Sajid Salim Khan, SC-25 Mr. Arif Daula Siddique, AC to SC-25
For the S.E.C.	:	Mr. Ravi Ranjan, Advocate



CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 03-09-2024 Heard Mr. Indradeo Prasad, learned counsel for the petitioner, Mr. Shailesh Kumar representing the respondent nos. 7, 8 and 12 to 18, Mr. Ravi Ranjan representing the State Election Commission, Mr. Arif Daula Siddique, AC to SC-25 and Mr. Jogindar Prasad representing the respondent nos. 6, 9 and 10.

2. The present writ petition has been preferred for the grant of following relief/s:-

“(i) बिहार पंचायत राज अधिनियम 2006 की धारा-18(4) (ii) के अन्तर्गत संपादित अविश्वास प्रस्ताव की कार्यवाही दिनांक-21.2.2024 (उपाबंध-8) को रद्द किया जाय, जो ग्राम पंचायत राज बसाढी के उप मुखिया अर्थात आवेदक के विरुद्ध पारित हुआ है।।

(ii) कोई अन्य आदेश/निर्देश जो विधि एवम न्यायहित के लिए उचित हो, उसे पारित किया जाय।

(iii) जबतक इस वाद का अंतिम निष्पादन नहीं हो जाता है, तबतक रूप से के लिए अविश्वास प्रस्ताव की कार्यवाही दिनांक. 21.02.2024 (उपाबंध-8) के कार्यान्वयन पर रोक लगाने का आदेश पारित किया जाय।”

3. Learned counsel for the petitioner submits that pursuant to the requisition dated 04.01.2024 against him who is ‘Up-Mukhiya’ relating to Basari Gram Panchayat under Bodh



Gaya Block in the District of Gaya to consider 'No confidence Motion', a meeting took place on 07th of January, 2024, when six members beside the 'Mukhiya' gave their support to him and as such, the 'Mukhiya' announced that the 'No Confidence Motion' is not required (Annexure-1 to 3 of the writ petition).

4. He submits that thereafter, another requisition was made against him whereafter the notices were issued on 17.02.2024 to all the members fixing the date of special meeting on 21.02.2024. Learned counsel submits that the **Section 18(4) (ii)** of the Bihar Panchayat Raj Act, 2006 (henceforth for short 'the Act') prohibits the second 'No Confidence Motion'.

5. It is the contention of the learned counsel for the petitioner that once the meeting took place, the second 'No Confidence Motion' cannot be brought during the rest of the tenure.

6. It would be important to incorporate Section 18 (4) (ii) of 'the Act' which read as follows:

18(4)(ii). Removal of Up-Mukhiya by no confidence motion-*Every Up-Mukhiya shall be deemed to have vacated his office forthwith if a resolution expressing want of confidence in him is passed by a simple majority of the total number of elected members of the Gram*



Panchayat and Mukhiya at a meeting especially convened for the purpose. The requisition for such a special meeting shall be signed by not less than one third of the total number of elected members of the Gram Panchayat and shall be delivered to the Mukhiya. The Mukhiya shall, within 7 days from the date of receipt of the requisition, convene a special meeting of the Gram Panchayat in the office of the Gram Panchayat for discussion on the motion and shall also preside over the meeting:

Provided that during the first two year period of the tenure, no such motion of no confidence shall be moved against the Up-Mukhiya. [Such a no confidence motion may be brought only once in the whole tenure of Up-Mukhiya]

Provided further that no motion of no confidence against Up-Mukhiya shall be brought during the last six months before the expiry of the term of Gram Panchayat.”

7. As per the records, pursuant to the notices issued, the meeting took place on 21.02.2024, where 14 members (out



of 15 members) appeared. Further, while 9 members voted for the motion, 5 members voted against it. Accordingly, the 'No Confidence Motion' was passed against the petitioner and the post of 'Up-Mukhiya' became vacant.

8. Thereafter, the election took place for the vacant post of 'Up-Mukhiya' on 27.05.2024 in which **respondent no. 13 (Nagina Devi)** has been elected as the new 'Up-Mukhiya'.

9. It has been jointly submitted by both learned counsel for the respondents including the new 'Up-Mukhiya' as also the learned counsel for the State Election Commission that a perusal of the Annexure 1 to 3 would show that the notice was prepared on 04.01.2024 which was served only to selected members and not to all the 15 members. They submit that there is nothing on record to show that pursuant to the decision taken for the special meeting, the notices were validly sent/served upon all the members.

10. This Court in that background, repeatedly made query from learned counsel for the petitioner, Mr. Indradeo Prasad to convince/show from the record that all the 15 members were noticed, in whatsoever manner and they despite having receipt of it, failed to appear in the meeting earlier.

11. However, neither learned counsel for the petitioner



could reply to this query nor has filed any document on record to show that the notices were sent to all the 15 members. In that background, the contention of the learned counsels appearing on behalf of the respondents is/are accepted. From the aforesaid facts, it is clear that the 'Mukhiya' in full connivance with the petitioner herein requisitioned the said meeting, issued notices to selected few, on the date of meeting, took an undertaking from those blue eyed members that they support the 'Up-Mukhiya' and as such, no 'No Confidence Motion' is further required. This is in the opinion of the Court is/was an illegal meeting.

12. In that background, the fresh requisition followed by the meeting in which the petitioner from the post of 'Up-Mukhiya' was removed is/are fully justified and as recorded above, election took place and a new 'Up-Mukhiya' has taken the seat.

13. The District Magistrate, Gaya as also the District Panchayati Raj Officer, Gaya are required to enquire into the matter how such kind of requisition is/are made which follows an illegal meeting and after getting a report, to act in accordance with law against all those who were part of the illegal meeting



and who tried to subvert the democratic process only to help out the petitioner. The said exercise has to be completed within a period of three months from the date, the copy is served upon him.

14. Learned State Counsel has given an undertaking that today itself, the concerned official shall be informed through telephone followed by a letter along with the copy of the order.

15. So far as the present petition is concerned, it is a frivolous one, the petitioner wants to get a stamp from the High Court on an illegal meeting as also wants quashing of the valid meeting held on 21.02.2024 which followed fresh election and Respondent no. 13 is the new ‘Up-Mukhiya’.

16. Accordingly, the writ petition is dismissed with a cost of Rs. 2,000/- to be deposited with the Patna High Court Legal Services Committee within a period of four weeks from today. Failure to do so, the authority shall take steps against the petitioner in accordance with law for the realisation of the amount.

(Rajiv Roy, J)

Adnan/Vijay

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